

1 Dillon E. Jackson WSBA #1539
2 Christopher M. Alston, WSBA #18823
3 FOSTER PEPPER PLLC
4 1111 Third Avenue, Suite 3400
5 Seattle, Washington 98101-3299
6 Telephone: (206) 447-4400
7 Facsimile No.: (206) 447-9700

The Honorable Patricia C. Williams
Chapter 11

8 Counsel for
9 AMERICANWEST BANCORPORATION

10 UNITED STATES BANKRUPTCY COURT
11 EASTERN DISTRICT OF WASHINGTON
12 AT SPOKANE

13 In Re:

Case No. 10-06097-PCW-11

14 AMERICANWEST
15 BANCORPORATION,

Chapter 11

16 Debtor.

**DEBTOR'S PLAN OF
DISTRIBUTION**

17 AMERICANWEST BANCORPORATION ("AWBC") proposes the
18 following Debtor's Plan of Distribution pursuant to Chapter 11 of the Bankruptcy
19 Code.

20 **ARTICLE 1 DISCLOSURE STATEMENT**

21 AWBC has filed the Debtor's Disclosure Statement with this Plan of
22 Distribution pursuant to Section 1125 of the Bankruptcy Code and Federal Rule of
23 Bankruptcy Procedure 3016(b). This Plan of Distribution is being disseminated to
24 creditors for vote after Bankruptcy Court approval of the information in the
25 Debtor's Disclosure Statement. The Debtor's Disclosure Statement contains useful
26 information to assist creditors in making an informed judgment about how to vote

1 on this Plan of Reorganization. Please read the Debtor's Disclosure Statement
2 with care in evaluating the impact of this Plan of Reorganization upon your claim
3 or interest.

4 **ARTICLE 2 DEFINITIONS**

5 A term used in this Plan of Reorganization that is not defined below and is
6 used in the Bankruptcy Code shall have the meaning ascribed in the Bankruptcy
7 Code. The following terms when used in this Plan of Reorganization have the
8 meanings specified below.

9 **2.1 Additional Distributions.**

10 Refers to distributions to Allowed Claims made after the initial distribution
11 made on the Distribution Date. There may be one or more Additional
12 Distributions.

13 **2.2 Administrative Expense Claim:**

14 A Claim entitled to priority under Section 507(a)(2) and (b) of the
15 Bankruptcy Code, including (i) Claims arising since the Petition Date of a type
16 described in Section 503(b) of the Bankruptcy Code, (ii) all Claims of professional
17 persons employed pursuant to an order of the Bankruptcy Court, and (iii) all fees
18 and charges assessed against the bankruptcy estate under 28 U.S.C. §1930.

19 **2.3 Allowed Claim:**

20 Refers to (i) any Claim which has been listed by Debtor in its Schedules, as
21 such Schedules may be amended from time to time in accordance with Bankruptcy
22 Rule 1009, as liquidated in amount and not disputed or contingent and for which
23 no contrary proof of claim has been filed, (ii) any Claim which is not a Disputed
24 Claim, (iii) any Ordinary Course Administrative Expense Claim which is not a
25 Disputed Claim, (iv) any Claim that is compromised, settled, or otherwise resolved
26 pursuant to the authority granted to the Debtor or the Reorganized Debtor pursuant

1 to a Final Order of the Bankruptcy Court, (v) any Claim which, if a Disputed
2 Claim, has been allowed by a Final Order, or (vi) any other Claim which has been
3 allowed by a Final Order; provided, however, that any Claim allowed solely for the
4 purpose of voting to accept or reject the Plan pursuant to an order of the
5 Bankruptcy Court shall not be considered an Allowed Claim hereunder until such
6 time as it qualifies as an Allowed Claim under one of the categories set forth
7 above. Any party in interest shall have the same right to object to an amendment
8 of Debtor's schedules as to a proof of claim, and any Claim covered by such
9 amendment as to which an objection has been filed shall not become an Allowed
10 Claim until allowed by a Final Order. A reference to a specific class of Claims in
11 conjunction with the word "Allowed" (e.g., Allowed General Unsecured Claim)
12 incorporates this definition of Allowed Claims.

13 **2.4 AmericanWest Bank:**

14 AmericanWest Bank, which was, until the Closing of the Sale, a wholly-
15 owned subsidiary of the Debtor.

16 **2.5 Assets:**

17 All assets of the Debtor, and all property of the Debtor's bankruptcy estate
18 under Section 541 of the Bankruptcy Code, including without limitation the stock
19 in AmericanWest Bank.

20 **2.6 Ballot:**

21 The ballot approved by the Bankruptcy Court to accompany the Plan and
22 Disclosure Statement which shall be sent to all Creditors entitled to vote on the
23 Plan.

24 **2.7 Ballot Deadline:**

25 The deadline established by Order of the Bankruptcy Court for submission
26 of Ballots on the Plan, which is **.

1 **2.8 Bankruptcy Code:**

2 The Bankruptcy Code as amended and set forth in Title 11 of the United
3 States Code.

4 **2.9 Bankruptcy Court:**

5 The United States Bankruptcy Court for the Eastern District of Washington
6 at Spokane before which the Case is pending or any other court exercising
7 jurisdiction over the Case in the future.

8 **2.10 Bankruptcy Rules:**

9 The Federal Rules of Bankruptcy Procedure as supplemented by the Local
10 Bankruptcy Rules for the Eastern District of Washington and any other local rules
11 applicable to the Bankruptcy Court.

12 **2.11 Business Day:**

13 A day that is not a federal holiday, a Saturday or a Sunday.

14 **2.12 Case:**

15 The Debtor's bankruptcy case, which is presently pending in the Bankruptcy
16 Court under Bankruptcy No. 10-06097-PCW-11.

17 **2.13 Claim:**

18 Means "claim" as defined in Section 101(5) of the Bankruptcy Code.

19 **2.14 Claims Bar Date or Bar Date:**

20 The date set by the Bankruptcy Court as the last day for filing proofs of
21 claim in the Case, which was January 31, 2011.

22 **2.15 Class:**

23 A class of claims or interests as defined in Sections 2.12 and 2.28 of the
24 Plan.
25
26

2.16 Closing and Closing Date:

The closing of the Sale of all of the Assets, including 100% of the stock of AmericanWest Bank, which closed on December 20, 2010.

2.17 Committee:

Means the Unsecured Creditors' Committee appointed by the United States Trustee in the Case.

2.18 Confirmation Date:

The date of the entry of the Confirmation Order on the Bankruptcy Court's docket.

2.19 Confirmation Order:

The order of the Bankruptcy Court confirming the Plan pursuant to Section 1129 of the Bankruptcy Code.

2.20 Creditor:

Means "creditor" as defined in Section 101(10) of the Bankruptcy Code.

2.21 Debtor:

AmericanWest Bancorporation, a Washington Corporation.

2.22 Debtor in Possession Financing:

The debtor in possession financing arrangement between SKBHC Hawks Nest Acquisition Corp., as lender, and Debtor as debtor, approved by the Bankruptcy Court by an order entered November 18, 2010.

2.23 Disallowed:

With respect to a Claim, a Claim or any portion thereof which has been disallowed by a Final Order or which becomes disallowed as a result of the claimants failure to timely file a proof of claim, as provided herein.

1 **2.24 Disclosure Statement:**

2 The Disclosure Statement approved by the Bankruptcy Court for submission
3 to Creditors.

4 **2.25 Disputed Claim:**

5 A Claim scheduled as a disputed or contingent Claim, and a Claim for which
6 a proof of claim has been filed and as to which an objection has been or hereafter is
7 timely filed and which objection has not been withdrawn and has not been denied
8 by a Final Order of the Bankruptcy Court.

9 **2.26 Distribution Agent:**

10 The person identified in Section 7.3 who will distribute funds payable to
11 holders of Allowed Claims pursuant to the Plan.

12 **2.27 Distribution Date:**

13 The first Business Day that is 25 days after the later of (i) the Effective Date
14 and (ii) entry of a Final Unstayed Order resolving the Pre-petition Tax Claim of the
15 Internal Revenue Service.

16 **2.28 Distribution Fund:**

17 The Distribution Fund shall be comprised of the Sale Proceeds and the cash
18 assets of the Debtor.

19 **2.29 Effective Date:**

20 The first Business Day the Confirmation Order becomes a Final Unstayed
21 Order.

22 **2.30 Equity Interest:**

23 The interest of a shareholder in the Debtor.

24 **2.31 Final Decree:**

25 The Final Decree entered by the Bankruptcy Court closing the Case.
26

2.32 Finally Determined:

With respect to a Claim, a Claim which has been Allowed or Disallowed by a Final Order.

2.33 Final Order:

An order or judgment of the Bankruptcy Court as to which the time for appeal has expired without a notice of appeal having been filed or, if a notice of appeal has been filed, as to which such appeal has been finally resolved.

2.34 Final Unstayed Order:

A Final Order which has not been stayed by a court of competent jurisdiction.

2.35 Indenture Trustees:

U.S. Bank and Wilmington.

2.36 Interim Payment Order:

The Order Establishing Procedures for Payment of Interim Professional Fees and Expenses entered by the Bankruptcy Court in the Case on December 14, 2010.

2.37 Notice and Hearing:

“Notice and Hearing” or similar language shall mean the notice and hearing procedure provided in the applicable Bankruptcy Rules.

2.38 Petition Date:

Date of the filing of the petition for relief by the Debtor, which is October 28, 2010.

2.39 Plan:

This Plan of Reorganization in its present form or as it may be amended or modified prior to entry of the Confirmation Order and in the form confirmed by the Bankruptcy Court in the Confirmation Order. “Plan” shall also include the Plan

confirmed on the Confirmation Date as may be amended after the Confirmation Date in accordance with the Bankruptcy Code or order of the Bankruptcy Court.

2.40 Proponent:

Proponent is the Debtor, who is the person proposing confirmation of the Plan to the Bankruptcy Court.

2.41 Pro Rata:

Refers to a distribution formula for distribution of funds to members of a class of creditors. The formula defining the percentage of the fund to be received by each member of the class and is expressed as: Fund Amount times the Allowed Claim divided by the Total of Allowed Claims in Class. Each member of the class will under a *pro rata* distribution receive the same percentage of their Allowed Claim.

2.42 Reorganized Debtor:

The Debtor, on and after the Effective Date.

2.43 Sale:

The sale of all of the Assets of the Debtor to SKBHC Holdings LLC and its wholly-owned subsidiary SKBHC Hawks Nest Acquisition Corp., approved by the Bankruptcy Court, which closed on December 20, 2010.

2.44 Sale Order:

The Order of the Bankruptcy Court approving the Sale entered on December 9, 2010.

2.45 Sale Proceeds:

Proceeds from the Sale paid to the Debtor in the amount of \$6,500,000.

2.46 Secured Claim:

The secured and priority claim of SKBHC Hawks Nest Acquisition Corp. for the Debtor in Possession Financing.

1 **2.47 Subordinated Claim:**

2 A Claim against the Debtor held by one or more of the Trusts that are related
3 to the Trust Preferred Securities (“TruPS”) that are further defined and discussed in
4 the Disclosure Statement. In this Plan Subordinated Claims are classified as
5 Unsecured Claims.

6 **2.48 Tax Claim:**

7 Any Claim held by a governmental entity against the Debtor.

8 **2.49 Trusts**

9 The following trusts formed by the Debtor or its predecessor: AmericanWest
10 Statutory Trust I, AmericanWest Statutory Trust II, AmericanWest Statutory
11 Trust III, and Columbia Trust Statutory Trust I.

12 **2.50 Unclassified Claim:**

13 A Claim other than a Claim of a kind specified in Section 507(a)(2),
14 507(a)(3), or 507(a)(8) of the Bankruptcy Code.

15 **2.51 Unsecured Claim:**

16 A Claim against the Debtor that arose before the Petition Date and is not an
17 Administrative Expense Claim, Tax Claim on a Secured Claim. Unsecured Claims
18 include Subordinated Claims.

19 **2.52 U.S. Bank:**

20 U.S. Bank National Association, as indenture trustee and institutional
21 trustee.

22 **2.53 Wilmington:**

23 Wilmington Trust Company, as indenture trustee and institutional trustee.
24
25
26

1 **ARTICLE 3 PAYMENT OF UNCLASSIFIED CLAIMS**

2 **3.1 Administrative Expense Claims:**

3 **3.1.1 Ordinary Course Administrative Expense Claims.**

4 An Administrative Expense Claim that has occurred in the ordinary course
5 of the business of the Debtor, other than Professional Fee Administrative Claims,
6 shall be deemed allowed and paid by the Debtor in the ordinary course in the
7 amounts reflected on the books and records of the Debtor. Certain of such claims
8 which are subject to disclosure filings or Bankruptcy Court order shall be paid in
9 accordance with such disclosure or order.

10 **3.1.2 Administrative Expense Claims Bar Date.**

11 Any person or entity holding an Administrative Expense Claim which has
12 not been paid by the Debtor as of the Confirmation Date (except for professionals
13 whose employment has been approved by the Bankruptcy Court) shall file with the
14 Bankruptcy Court and serve on the Debtor a Proof of Claim no later than twenty-
15 one (21) days after the Confirmation Date. Failure to file and serve an
16 Administrative Expense Claim by this date shall conclusively bar the claimant
17 from asserting its Administrative Expense Claim, and the Administrative Expense
18 Claim shall be Disallowed and forever discharged.

19 **3.1.3 Professional Fee Administrative Expense Claims.**

20 All professional fees and expenses for professionals whose employment has
21 been approved by the Bankruptcy Court may be paid on an interim basis in
22 accordance with the Interim Payment Order. Final requests for payment of fees
23 and reimbursement of expenses shall be allowed and paid as approved by the
24 Bankruptcy Court, first from any advance fee deposits held by the professional fee
25 claimant, and then in full on the later of (i) the Distribution Date, and (ii) 15 days
26 after Bankruptcy Court approval of the fees and expenses.

1 **3.1.4 Professional Fee Bar Date.**

2 Applications for final awards of compensation for services and expenses for
3 professionals incurred prior to the Effective Date shall be filed with the
4 Bankruptcy Court and served on the Debtor on or before twenty-one (21) days
5 after the Effective Date. Failure to file and serve a final application by this date
6 shall conclusively bar the claimant from asserting its Administrative Expense
7 Claim for compensation and expenses, and the Administrative Expense Claim shall
8 be Disallowed and forever discharged.

9 **3.1.5 Post-Confirmation Professional Fees.**

10 Professionals whose employment has been approved by the Bankruptcy
11 Court and who continue to provide services to the Reorganized Debtor after the
12 Effective Date shall be compensated and reimbursed for their expenses by filing
13 and serving a notice of interim compensation and reimbursement of expenses on a
14 monthly basis in the manner describe in the Interim Payment Order, and shall be
15 entitled to payment from the Reorganized Debtor on a monthly basis in accordance
16 with the Interim Payment Order. The Interim Payment Order shall be deemed
17 modified so that payment of such post-confirmation professional fees and expenses
18 shall be subject neither to a holdback nor a further order of the Bankruptcy Court,
19 absent an objection that is filed and served by a party in interest in the manner
20 provided in the Interim Payment Order. If a proper objection is filed and served,
21 then the objection shall be resolved in the manner prescribed by the Interim
22 Payment Order.

23 **3.2 Priority Tax Claims:**

24 On the Distribution Date, each holder of an Allowed Claim entitled to
25 priority under Section 507(a)(8) of the Bankruptcy Code shall be paid in full or on
26

1 a *pro rata* basis if there are insufficient funds in the Distribution Fund to pay all
2 Priority Tax Claims in full on the Distribution Date.

3 **ARTICLE 4 CLASSIFICATION OF CLAIMS AND INTERESTS**

4 The claims and interests are classified as follows:

5 Class 1: Secured Claims.

6 Class 2: Unsecured Claims.

7 Class 3: Equity Interests in the Debtor.

8 **ARTICLE 5 TREATMENT OF CLAIMS**

9 **5.1 Class 1: Secured Claims.**

10 **5.1.1 Treatment.**

11 Holders of Allowed Secured Claims, if any, shall be paid in full in
12 accordance with the loan documents on or before the Distribution Date.

13 **5.1.2 Impairment.**

14 Class 1 Claims are unimpaired.

15 **5.2 Class 2: Unsecured Claims.**

16 **5.2.1 Treatment.**

17 On the Distribution Date, each holder of an Allowed Unsecured Claim shall
18 be paid *pro rata* from the sums remaining in the Distribution Fund after payment
19 in full of all Unclassified Claims and the Claims in Class 1, and less any reserves
20 for Disputed Claims or estimated remaining Administrative Expenses for
21 distribution to Wilmington and U.S. Bank, each as trustee under the respective
22 indentures, who shall then be responsible for further distribution of such funds in
23 accordance with the terms of this plan, the applicable indentures and trust
24 documents. For clarification the failure of either Wilmington or U.S. Bank to seek
25 allowance of any of their fees and expenses as Administrative Expenses under the
26 Plan shall not prejudice or impair each of their ability to recover such fees and

1 expenses in accordance with the distribution provisions of the respective applicable
2 indentures and trust documents.

3 The Trusts shall not be obligated to pay any amounts that may be payable to
4 the Debtor under the trust agreements, and the Debtor waives any right or claim to
5 any payment from the Trusts.

6 **5.2.2 Impairment.**

7 Class 2 Claims are impaired.

8 **5.3 Class 3: Equity Interests.**

9 **5.3.1 Treatment.**

10 Holders of Equity Interests shall receive nothing on account of their equity
11 interests, and all of the issued and outstanding stock of the Debtor shall be
12 cancelled as of the Effective Date.

13 **5.3.2 Impairment.**

14 Class 3 interests are impaired.

15 **5.3.3 Plan Rejection.**

16 Because this class will receive no value, this Class 3 is deemed to have voted
17 against confirmation of the Plan.

18 **ARTICLE 6 VALIDITY OF PRIOR ORDERS**

19 Except as provided in the Plan, the Confirmation Order, or other order
20 entered by the Bankruptcy Court, this Plan does not alter or amend the prior orders
21 entered by the Bankruptcy Court in this case, including without limitation the Sale
22 Order and the Debtor in Possession Financing Order entered November 18, 2010.

23 **ARTICLE 7 MEANS FOR EXECUTION OF THE PLAN**

24 **7.1 Organization of Debtor.**

25 After the Effective Date and after distributions under the Plan have been
26 commenced, the Bylaws and Articles of Incorporation of the Reorganized Debtor

1 shall be modified such that the Board of Directors shall be reduced to one person
2 and the number of shareholders shall be reduced to one person. The sole director
3 and shareholder shall be Patrick J. Rusnak to serve until the dissolution and
4 winding up of the Debtor has been completed.

5 **7.2 Dissolution of Pre-Confirmation Committee.**

6 Upon the Effective Date, the Committee shall be dissolved and shall have no
7 duties, power, obligations, or authority.

8 **7.3 Distribution Agent.**

9 Patrick J. Rusnak shall serve as the Distribution Agent. On the Distribution
10 Date, or as soon as practicable thereafter, the Distribution Agent shall commence
11 distributions to holders of Allowed Claims as provided in the Plan. The
12 Distribution Agent shall be entitled to compensation at the rate of \$250 per hour.

13 **7.4 Reservation of Funds—Additional Distributions.**

14 As of the Distribution Date, the Reorganized Debtor shall reserve sufficient
15 funds to adequately provide for anticipated costs of administration and disputed
16 Claims. As disputed Claims are resolved, the reserved funds freed by such
17 resolution shall be distributed as under the Plan. There may be one or more
18 Additional Distributions.

19 **7.5 Post-Confirmation Management.**

20 The Board of Directors will be reduced to one person. After confirmation of
21 the Plan, the Debtor will employ the following people:

22 1. Patrick J. Rusnak as the Chief Executive Officer and President, who
23 will be primarily responsible for executing the Plan and winding up the
24 Reorganized Debtor's affairs. Mr. Rusnak will be compensated at the rate of \$250
25 per hour.
26

1 2. Jay B. Simmons, as the Executive Vice President, General Counsel
2 and Secretary, who will assist with the execution of the Plan and the winding up of
3 the Reorganized Debtor's affairs, and will coordinate the work of the professionals
4 providing services to the Reorganized Debtor. Mr. Simmons will be compensated
5 at the rate of \$200 per hour.

6 3. Shelly Krasselt, as the Principal Accounting Officer, who will provide
7 necessary accounting functions, prepare financial reports, and assist with the
8 execution of the Plan and the winding up of the Reorganized Debtor's affairs.
9 Ms. Krasselt will be compensated at the rate of \$100 per hour.

10 The above individuals will be paid by the Distribution Agent on a monthly
11 basis. The post confirmation financial reports shall detail the compensation paid
12 for these services.

13 **7.6 Source of Funds.**

14 Funds for the distributions proposed under the Plan are the Sale Proceeds
15 and any additional cash held in the Debtor's bank accounts.

16 **7.7 Tax Determination.**

17 **7.7.1 Pre-Petition Tax Claims.**

18 The Debtor will either (i) proceed under Section 505(a) of the Bankruptcy
19 Code to obtain a Final Order that all of the tax returns filed by the Debtor prior to
20 the Petition Date are accepted, final and no longer subject to further review by the
21 Internal Revenue Service, or (ii) reach a final resolution on the pre-petition Tax
22 Claims held by the Internal Revenue Service, which final resolution shall be
23 approved by an order of the Bankruptcy Court without notice if no Claim is
24 allowed and only after notice to all parties who have requested special notice in the
25 Case and an opportunity for a hearing if a Claim is allowed. Distributions under
26 the Plan will not be made prior to April 27, 2011 and either 1) entry of a Final

1 Unstayed Order resolving the pre-petition Tax Claims of the Internal Revenue
2 Service or 2) withdrawal of the IRS claims filed in the Case.

3 **7.7.2 Post-Petition Taxes.**

4 Promptly upon the filing of any returns for post-petition periods, the Debtor
5 will seek an accelerated determination that the returns are accepted, final and no
6 longer subject to further review under the procedures provided in Section 505(c) of
7 the Bankruptcy Code.

8 **7.7.3 Reserves.**

9 Until final determination of the pre- and post-petition Tax Claims of the
10 Internal Revenue Service, the Reorganized Debtor shall retain sufficient reserves
11 that in the opinion of its tax and legal advisors are sufficient to respond to any
12 liability in full. If any party in interest disputes the necessity and/or extent of the
13 amounts held in reserves, the party in interest shall be entitled seek an order
14 modifying the amount on motion and notice in accordance with the Bankruptcy
15 Rules.

16 **7.8 Post-Effective Date Administrative Expenses.**

17 A reserve sufficient to complete outstanding legal and administrative work
18 to resolve all claims, dissolve the Reorganized Debtor and provide communication
19 to parties in interest shall be established. Any excess from the reserve after the
20 cessation of all activity will be distributed first to holders of any unpaid
21 Unclassified Claims on a *pro rata* basis until holders of such claims are paid in
22 full, then to holders of any unpaid Class 2 Claims on a *pro rata* basis until holders
23 of such claims are paid in full, then to holders of Class 3 Claims on a *pro rata*
24 basis.

1 **7.9 Actions On or After the Effective Date.**

2 On the Effective Date:

3 7.9.1 The Reorganized Debtor and the Distribution Agent shall be
4 responsible for implementing the Plan.

5 7.9.2 All of the Assets including without limitation all causes of action
6 under Chapter V of the Bankruptcy Code, shall vest in the Reorganized Debtor free
7 and clear of all liens, security interests and claims, except as otherwise expressly
8 provided for in the Plan. After distributions under the Plan competed, it is not
9 contemplated that the Debtor will have any assets remaining other than funds for
10 windup expenses.

11 7.9.3 The Distribution Agent shall comply with the Plan and make the
12 distributions required by the Plan.

13 7.9.4 In the event of a dispute on any Claim, the amount of such Claim that
14 is not subject to dispute shall be an Allowed Claim and distribution made thereon.

15 **7.10 Post-Confirmation Consultation.**

16 After the Confirmation Date, the Distribution Agent and the Reorganized
17 Debtor will continue to consult with the Indenture Trustees on Administrative
18 Expenses, settlement of contested claims, and any post confirmation litigation in
19 which the Reorganized Debtor is a Party. The Indenture Trustees will be advised
20 of such activities, receive notice of any action requiring a Court Order and will
21 have the right to object or otherwise be heard on such actions.

22 **7.11 Cancellation of Securities.**

23 On the Effective Date, except to the extent otherwise provided herein, all
24 notes, stock, instruments, certificates, debentures, agreements, indentures,
25 declarations of trust, guarantees and other documents evidencing the Claims
26 related to the Trusts and Equity Interests shall be deemed automatically canceled,

1 shall be of no further force, whether surrendered for cancellation or otherwise;
2 provided, that the indentures and other trust documents related to the Trusts shall
3 survive solely for the purpose of: (i) allowing the applicable Indenture Trustees to
4 receive distributions on account of Trust Claims and make further distributions in
5 accordance with this Plan and the applicable indentures and trust documents and
6 (ii) permitting the applicable Indenture Trustees to exercise any lien rights it may
7 have against property held or collected by such Indenture Trustee to deduct its
8 reasonable fees, costs and expenses from any amounts held by it, in accordance
9 with the applicable indentures and trust documents, and for indemnification as
10 provided therein. Immediately upon final distribution, the Trusts shall be canceled,
11 dissolved and terminated and each Indenture Trustee shall be discharged of any
12 obligations to the Debtor or any other Person under the applicable indentures, trust
13 documents and guarantees.

14 **7.12 Distributions on Account of Trust Claims/Distribution Record Date.**

15 The Debtor shall make any distributions on account of Claims related to the
16 Trusts to the applicable Indenture Trustee. The applicable Indenture Trustee shall
17 make further distribution of such amounts, after deduction for its reasonable fees,
18 costs and expenses, in accordance with this Plan and the provisions of the
19 indentures and trust documents to holders of record as of the Confirmation Date.

20 **ARTICLE 8 TREATMENT OF EXECUTORY CONTRACTS**

21 **8.1 Assumption and Rejection.**

22 The Debtor shall assume the equipment leases with CIT Communications
23 Finance Corporation identified in Claim #7 filed in this case. Debtor will assign
24 the leases to AmericanWest Bank. The leases are not in default, no cure amounts
25 are due and assumption by AmericanWest Bank which is already a party under the
26 leases as amended shall constitute full compliance with all terms of the Bankruptcy

1 Code relating to assumption and assignment of executory contracts including
2 adequate assurance of future performance.

3 Upon the Effective Date and without any further order of the Bankruptcy
4 Court, the Debtor shall be deemed to have rejected all executory contracts and
5 unexpired leases not previously assumed or specifically assumed under the Plan.

6 **8.2 Rejection Claims.**

7 Any person or entity holding a Claim based upon the rejection of an
8 executory contract or unexpired lease must file with the Bankruptcy Court and
9 serve on the Debtor a Proof of Claim within twenty-one (21) days after the
10 Confirmation Date. The failure to file a Proof of Claim by this deadline will result
11 in such Claim being Disallowed and forever discharged.

12 **ARTICLE 9 CLAIMS OBJECTIONS**

13 The Reorganized Debtor and any other party in interest shall have thirty (30)
14 days following the Confirmation Date to file an objection to any Claim with the
15 Bankruptcy Court. All Claim objections shall be determined by the Bankruptcy
16 Court after notice to the person whose claim is being objected to and opportunity
17 for a hearing in accordance with the Bankruptcy Rules. The Debtor shall reserve
18 115% of the amount of any disputed claim pending determination of the dispute by
19 settlement or by Order of the Bankruptcy Court.

20 **ARTICLE 10 UNCLAIMED FUNDS**

21 The Reorganized Debtor may stop payment on any check made in payment
22 on an Allowed Claim or Administrative Expense under the Plan any time 60 days
23 after the check was mailed. The Reorganized Debtor may rely on the address set
24 forth in each proof of claim (or if there is no proof of claim, the address set forth in
25 the bankruptcy schedules) unless the creditor provides the Reorganized Debtor
26 with a written notice of a change in the creditor's address.

1 **ARTICLE 11 REPORTS AND STATUTORY FEES**

2 Until the Case is closed, the Reorganized Debtor shall (i) file post-
3 confirmation reports consistent with Local Bankruptcy Rule 2015-1(c), and (ii) pay
4 all quarterly fees due and payable to the Office of the United States Trustee.

5 **ARTICLE 12 MODIFICATION OF THE PLAN**

6 The Debtor may propose amendments or modifications to the Plan at any
7 time prior to the Confirmation Date. After the Confirmation Date, the Debtor or
8 the Reorganized Debtor may, with approval of the Bankruptcy Court, and so long
9 as it does not materially or adversely affect the interests of creditors, remedy any
10 defect or omission, or reconcile any inconsistencies in the Plan or in the
11 Confirmation Order, in such a manner as may be necessary to carry out the
12 purposes and effect of the Plan.

13 **ARTICLE 13 EFFECT OF CONFIRMATION**

14 **13.1 Discharge.**

15 Allowed Claims that are paid in full are discharged and any liability arising
16 therefrom shall be extinguished completely.

17 **13.2 Injunction.**

18 Allowed Claims that are not paid in full shall not be discharged, but all
19 holders of all Claims, whether or not they are paid in full, will be enjoined from
20 enforcement of any claim or taking any action against the Reorganized Debtor or
21 against property of the estate being administered under the Plan to collect their
22 debts from or against the Reorganized Debtor except as specifically authorized by
23 the Plan, or to enforce the terms of the Plan.

24 All holders of Equity Interests also shall be enjoined from enforcement of
25 any claim or taking any action against the Reorganized Debtor or against property
26

1 of the estate being administered under the Plan except as specifically authorized by
2 the Plan, or to enforce the terms of the Plan.

3 **13.3 Exculpation and Limitation of Liability.**

4 Neither the Debtor, the Reorganized Debtor, the Committee, nor any of their
5 respective present or former members, managers, officers, directors, employees,
6 advisors, attorneys, or agents for them acting in such capacity will have or incur
7 any liability to, or be subject to any right of action by, any holder of a Claim or
8 Equity Interest or any other party-in-interest or any of their respective agents,
9 employees, representatives, financial advisors, attorneys, affiliates, or any of their
10 successors or assigns, for any act or omission in connection with, relating to, or
11 arising out of the Case, the pursuit of confirmation of the Plan, or the
12 administration of the Plan, or the property to be distributed under the Plan, except
13 for their willful misconduct; and in all respects such parties shall be entitled to
14 reasonably rely upon the advice of counsel with respect to their duties and
15 responsibilities under the Plan or in the context of the Case.

16 **ARTICLE 14 RETENTION OF JURISDICTION**

17 **14.1 Generally.**

18 Following the Confirmation Date, the Bankruptcy Court shall retain
19 jurisdiction over the Reorganized Debtor until the Plan is fully consummated and
20 an order closing the Case is entered by the Bankruptcy Court. The Bankruptcy
21 Court's retained jurisdiction shall give it authority to hear matters for purposes of
22 administering the Plan, including without limitation:

23 1. To determine all adversary proceedings, applications, motions and
24 contested matters instituted prior to the closing of the Case, including Claims
25 objections;
26

1 2. To ensure that distributions are accomplished as provided in the Plan
2 and, if requested, to provide orders approving distributions;

3 3. To determine all objections to Administrative Claims filed both before
4 and after the Confirmation Date;

5 4. To determine any objection to a Claim or any litigation relating to the
6 allowance of the Claim;

7 5. To enter and implement such orders as may be appropriate in the
8 event the Confirmation Order is for any reason stayed, revoked, modified or
9 vacated;

10 6. To issue orders in aid of execution of the Plan and to issue injunctions
11 or take such other actions or make such other orders as may be necessary or
12 appropriate to restrain interference with the Plan or its execution or implementation
13 by any entity;

14 7. To consider all modifications of the Plan, to cure any defect or
15 omission in the Plan, or to reconcile any inconsistency in the Plan or any order of
16 the Bankruptcy Court, necessary to carry out the purpose and intent of the Plan
17 including, without limitation, the Confirmation Order;

18 8. To determine all applications for compensation and reimbursement of
19 expenses of professionals under sections 330, 331 and 503(b) of the Bankruptcy
20 Code;

21 9. To determine any disputes arising in connection with the
22 interpretation, implementation, execution or enforcement of the Plan, the
23 Confirmation Order or any other order of the Bankruptcy Court;

24 10. To determine all matters concerning state, local and federal taxes in
25 accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
26

1 11. To determine any other matter not inconsistent with the Bankruptcy
2 Code; and

3 12. To enter a Final Decree.

4 **14.2 Reopening Not a Prerequisite to Jurisdiction.**

5 Exercise of the Bankruptcy Court's continuing jurisdiction on matters
6 related to the Case or the Plan shall not require that the Case be formally reopened.
7 However, the Bankruptcy Court may order a closed case to be reopened in its
8 discretion.

9 **ARTICLE 15 EVENTS OF DEFAULT**

10 In the event Debtor defaults under the provisions of the Plan, any Creditor
11 desiring to assert such a default shall serve on the Debtor written notice of the
12 alleged default. The Debtor shall have 30 days from receipt of the written notice in
13 which to cure the default. If a default is not cured within the 30-day notice period,
14 the Creditor providing such notice of default may thereafter file with the
15 Bankruptcy Court and serve upon Debtor and its counsel a motion requesting
16 relief. The Bankruptcy Court, upon a finding of a material default, shall issue an
17 order as appropriate under the circumstances. If the Creditor is the Internal
18 Revenue Service, then it may revert to its ordinary administrative collection
19 procedures after giving 30 days' written notice of the default as provided herein.

20 **ARTICLE 16 GENERAL PROVISIONS**

21 **16.1 Substantial Consummation.**

22 The Plan shall be deemed substantially consummated when the initial
23 distributions under the plan have been made and reserves for disputed claims, post
24 petition administrative expenses and expenses of dissolution and winding up have
25 been established.
26

1 **16.2 Stay of Confirmation Order Shall Not Apply.**

2 The stay of enforceability of the Confirmation Order pursuant to Bankruptcy
3 Rule 3020(e) shall not apply, and the Confirmation Order shall be enforceable
4 according to its terms immediately upon entry absent further order of a court of
5 competent jurisdiction.

6 **16.3 Governing Law**

7 The construction, implementation and enforcement of the Plan and all rights
8 and obligations arising under the Plan shall be governed by, and construed and
9 enforced in accordance with, the laws of the State of Washington without giving
10 effect to its conflicts of law principles, except to the extent that the Bankruptcy
11 Code or Bankruptcy Rules or other federal laws are applicable, and subject to the
12 provisions of any contract, instrument, release, or other agreement or document to
13 which the Debtor is a party and that has been approved by the Bankruptcy Court.

14 **16.4 Notices.**

15 Any notice required or permitted to be provided under the Plan shall be in
16 writing and served by regular first class mail, overnight delivery, or hand-delivery
17 to the parties set forth below:

18 For the Debtor and Reorganized Debtor:

19 Dillon E. Jackson
20 Foster Pepper PLLC
21 1111 Third Avenue, Suite 3400
22 Seattle, WA 98101-3299
23 Phone: (206) 447-4400
24 Fax: (206) 447-9700

25 -and-

26 G. Larry Engel
Morrison & Foerster
425 Market Street

San Francisco, CA 94105
Phone: (415) 268-7000
Fax: (415) 268-7522

16.5 Final Decree.

After the Plan has been substantially consummated, the Reorganized Debtor may file an application for a Final Decree showing that the Plan has been substantially consummated. The Reorganized Debtor will serve the application for a Final Decree on the United States Trustee, the Internal Revenue Service, and on parties that have filed requests for special notice in the Case. After service of the notice and an opportunity for a hearing in accordance with the Bankruptcy Rules, an order approving the Reorganized Debtor's final report, entering a Final Decree and closing the Reorganization Case may be entered.

16.6 Headings.

The headings of the articles, paragraphs, and section of the Plan are inserted for convenience only and will not affect the interpretation hereof.

16.7 Successors and Assigns.

The rights, benefits and obligations of any person named or referred to in the Plan shall be binding upon, and will inure to the benefit of, the heirs, executors, administrators, successors or assigns of such Person.

16.8 Corporate Dissolution.

After the Effective Date, the Reorganized Debtor may seek to dissolution and winding up of its affairs under the applicable provisions of Washington law without further order of the Court, provide that the Reorganized Debtor may seek such Bankruptcy Court orders as may be necessary to aid in the completion of its dissolution and winding up.

1 **ARTICLE 17 REQUEST FOR CONFIRMATION**

2 The Debtor requests entry of a Confirmation Order pursuant to Section 1129
3 of the Bankruptcy Code. As to the Class of Interests, Debtor requests confirmation
4 over the deemed rejected Class of Interests pursuant to 1129(b).

5 DATED this ____ day of March, 2011.

6 **AmericanWest Bancorporation,**
7 **Debtor and Debtor in Possession**

8 *s/ Patrick J. Rusnak*

9
10 _____
11 Patrick J. Rusnak, CEO
12 AmericanWest Bancorporation